IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

STEVIE WINSTON, #525214 §

VS. § CIVIL ACTION NO. 9:05cv141

DAVID STACKS, ET AL. §

ORDER OF DISMISSAL

Plaintiff Stevie Winston, a Texas prison inmate, proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. On January 30, 2006, Magistrate Judge Judith K. Guthrie issued a Report and Recommendation concluding that the lawsuit should be dismissed as frivolous and for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915A(b)(1). On February 17, 2006, the Report and Recommendation was adopted, but the Order of Dismissal incorrectly cited the statutory basis for dismissing the lawsuit as 42 U.S.C. § 1997A(b)(1), as opposed to 28 U.S.C. § 1915A(b)(1). On June 14, 2007, the Fifth Circuit affirmed the judgment but noted that the complaint should have been dismissed pursuant to 28 U.S.C. § 1915A. The Fifth Circuit noted that the error was clerical in nature and remanded the case for the limited purpose of correcting the clerical error. In light of the instructions of the Fifth Circuit, it is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A.

All motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this the 18 day of July, 2007.

Thad Heartfield

United States District Judge